

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
Northern Division**

H.M. WHITE, LLC, :
:
Plaintiff, :
:
v. : Case No. CV-05-0879-B
:
DURR INDUSTRIES, INC. :
:
Defendant. :

NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Plaintiff H.M. White, LLC, pursuant to Rule 41 of the Federal Rules of Civil Procedure, voluntarily dismisses this action, without prejudice, as follows:

1. Rule 41(a)(1) of the Federal Rules of Civil Procedure provides that “an action may be dismissed by the plaintiff without order of the court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment . . . Unless otherwise stated in the notice of dismissal . . , the dismissal is without prejudice . . .” Defendant Durr Industries, Inc. has not filed an answer or a motion for summary judgment.

2. Accordingly, Plaintiff voluntarily dismisses this action without prejudice in accordance with *Fed.R.Civ.P.* 41(a)(1).

Done this 21st day of October, 2005.

/s/ R. Brooke Lawson III

**J. LISTER HUBBARD (HUB007)
R. BROOKE LAWSON III (LAW026)**

Attorneys for Plaintiff H.M. White, LLC

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system that will send notification of such filing to the following:

Frank M. Young, III, Esq.
Haskell Slaughter Young & Rediker, LLC
2001 Park Place North, Suite 1400
Birmingham, Alabama 35203

/s/ R. Brooke Lawson III

Of Counsel